THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.5111 of 2007

Dated 24-06-2007

Between:

Talari Nageswara Rao

…Petitioner

And

Government of A.P.,
Irrigation Department,
Rep. by its Principal Secretary, and others

…Respondents

THE HON'BLE MR JUSTICE L. NARASIMHA REDDY

Writ Petition No.5111 of 2007

ORDER:

The petitioner is the owner of land in Sy.No.604/2J of

Palacherla Village of Rajanagaram Mandal, East-Godavari District. For the purpose of excavation of the irrigation canal for Indirasagar (Polavaram) Project, lands in various survey numbers were notified for acquisition. So far as the land of the petitioner is concerned, an extent of Ac.0.25 cents was notified, through the notification issued under Section 4(1) of the Land Acquisition Act, published on 22-11-2006, by the 3rd respondent, Sub-Collector, East-Godavari. However, due to change of alignment, or allied reasons, the extent was revised, not only in respect of the land of the petitioner, but also of others, in the same village. Draft declaration was also issued subsequently. Thereafter, an errata was issued, reducing the extent to 14 cents, in respect of Sy.No.604/2J. Similar reductions were made in other survey numbers also. The grievance of the petitioner is that, though acquisition was confined to 14 cents, the excavation is taking place in the extent of 25 cents.

The 3rd respondent filed a counter-affidavit, admitting that, initially an extent of 25 cents, belonging to the petitioner, was notified for acquisition, and thereafter, it was restricted to 14 cents. The 2nd respondent, however, filed a counter-affidavit, stating that they are entitled to proceed with the excavation, over an extent of 25 cents of land. It is also stated that the work is in progress.

Heard the learned counsel for the petitioner and learned Government Pleader for Irrigation.

The record clearly discloses that the extent of land, acquired from the petitioner, is only 14 cents. The mere fact that a larger extent, namely, 25 cents was notified, on earlier occasion; does not entitle the respondents to excavate on any land, over and above 14 cents. The stand taken by the 2nd respondent cannot be countenanced in law. There is no question of their taking possession of the land of the

petitioner, in excess of 14 cents.

Therefore, the writ petition is allowed, directing that the respondents, and in particular the 2nd respondent, shall not dispossess the petitioner from any land in excess of 14 cents, that is notified by acquisition.

There shall be no order as to costs.

L. NARASIMHA REDDY, J.

Dt.24-07-2007.

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